REMARKS

This Amendment is being filed simultaneously with a Request for Continued Examination. Thus, the document is a submission in accordance with 37 C.F.R. §1.114.

Claims 26-49 are pending in this application. By this Amendment, claims 1, 3-5, 7-22 and 24-25 are canceled without prejudice or disclaimer and new claims 26-49 are added.

The Office Action rejects claims 1, 3-22, 24 and 25 under 35 U.S.C. §102(e) by U.S. Patent Publication 2004/0203615A1 to Qu et al. (hereafter Qu). Claims 1, 3-22, 24 and 25 have been canceled. Thus the rejection is moot. Each of the ending claims are patentable over Qu as will briefly be described below.

Independent claim 26 recites generating information related to at least one parameter for the performance upgrading within the receiving terminal, wherein the information is included in a message of a messaging service for the receiving terminal. Independent claim 26 also recites transmitting the message using the messaging service to the receiving terminal to allow the receiving terminal to upgrade its performance by changing at least one corresponding parameter stored within the receiving terminal using the message transmitted to the receiving terminal.

Qu does not teach or suggest at least these features of independent claim 26. Qu discloses a method and apparatus for filtering broadcast SMS messages at a mobile station based on network configuration, user configuration, and/or user preferences. In particular, Qu relates to a mobile user's ability to control which broadcast message to receive and process by the mobile station.

In contrast, independent claim 26 recites "generating information related to <u>at least one</u> <u>parameter for the performance upgrading within the receiving terminal</u>..." and "transmitting the message...allow the receiving terminal to upgrade its performance <u>by changing at least one</u> <u>corresponding parameter stored within the receiving terminal using the message transmitted to</u> <u>the receiving terminal</u>." For example, as one non-limiting example, a sender generates a message of the messaging service to a receiving terminal where the message includes information related to at least one parameter for the performance upgrading within the receiving terminal. Qu does not teach or suggest <u>changing a parameter for performance upgrading within the receiving</u> <u>terminal</u>.

Independent claim 26 provides a different technical solution (i.e., a message of the messaging service that includes information related to a parameter for performance upgrading of the receiving terminal) that is not considered in Qu. Qu merely provides techniques for a filtering SMS message. Qu does not include performance upgrading by using a message of a messaging service.

Also, one skilled in the art could not and would not have been motivated to combine any of Qu's teachings with other documents so as to reach the claimed features because of the various technical differences involved therebetween. Furthermore, even if any combination of Qu and other documents is technically possible, such would still not achieve applicant's claimed features because of differences explained above. For at least the reasons set forth above, Qu

does not teach or suggest all the features of independent claim 26. Thus, independent claim 26 defines patentable subject matter.

Independent claim 36 recites receiving a message of a messaging service via a network, wherein the message of the messaging service includes information related to at least one parameter for the performance upgrading within the receiving terminal. Independent claim 36 also recites storing the received message, and upgrading a performance of the receiving terminal by changing at least one corresponding parameter stored within the receiving terminal using the received message of the messaging service.

For at least similar reasons as set forth above, Qu does not teach or suggest all the features of independent claim 36. Thus, independent claim 36 defines patentable subject matter.

Independent claim 47 recites a transceiver, a memory, and a processor cooperating with the transceiver and the memory to perform: receiving a message of a messaging service via a network, wherein the message of the messaging service includes information related to at least one parameter for the performance upgrading within a receiving terminal, storing the received message in the memory, and upgrading a performance of the receiving terminal by changing at least one corresponding parameter stored within the receiving terminal using the received message of the messaging service.

For at least similar reasons as set forth above, Qu does not teach or suggest all the features of independent claim 47. Thus, independent claim 47 defines patentable subject matter.

Independent claim 48 recites forming a message including a parameter to be changed in a

mobile telecommunication terminal, and transmitting the message having a key value to change a

pre-stored parameter that controls a performance of the mobile telecommunication terminal,

wherein the key value is used for a certification of a sender of the message and the pre-stored

parameter of the mobile telecommunication terminal is changed when the key value contained in

the message is identical to a previously stored value in the mobile telecommunication terminal.

For at least similar reasons as set forth above, Qu does not teach or suggest all the

features of independent claim 48. Thus, independent claim 48 defines patentable subject matter.

Independent claim 49 recites receiving a message from a network, wherein the message

includes a key value of a mobile telecommunication terminal and a new performance controlling

parameter of the mobile telecommunication terminal to be changed, wherein the key value is

used to certify a sender of the message. Independent claim 49 also recites storing the key value

and the new performance controlling parameter in a memory, replacing a previously stored

performance controlling parameter with the new performance controlling parameter if a certain

condition is met, and controlling a performance of the mobile telecommunication terminal based

on the new performance controlling parameter.

For at least similar reasons as set forth above, Qu does not teach or suggest all the

features of independent claim 49. Thus, independent claim 49 defines patentable subject matter.

Accordingly, each of independent claims 26, 36 and 47-49 defines patentable subject

matter. Each of the dependent claims depends from one of the independent claims and
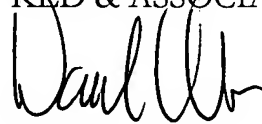
therefore defines patentable subject matter at least for this reason. In addition, the dependent

claims recite features that further and independently distinguish over the applied references.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition

for allowance. Favorable consideration and prompt allowance of claims 26-49 are earnestly

solicited. If the Examiner believes that any additional changes would place the application in

better condition for allowance, the Examiner is invited to contact the undersigned attorney at the

telephone number listed below.

. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is

hereby made. Please charge any shortage in fees due in connection with the filing of this,

concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and

please credit any excess fees to such deposit account.

Respectfully submitted,
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